

LEGISLATIVE COUNCIL  
FILE 301

96TH CONGRESS  
1ST SESSION

# H. R. 2539

To provide for continuation of authority to regulate exports.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 1979

Mr. BINGHAM (for himself, Mr. ZABLOCKI, and Mr. PEASE) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs and Rules

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## A BILL

To provide for continuation of authority to regulate exports.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3  
4 SHORT TITLE

5 SECTION 1. This Act may be cited as the "Export Ad-  
6 ministration Act Amendments of 1979".

7 FINDINGS

8 SEC. 2. Section 2 of the Export Administration Act of  
9 1969 (22 U.S.C. 2401) is amended to read as follows:

10 "FINDINGS

"SEC. 2. The Congress makes the following findings:

I-E●

1           “(1) A large United States trade deficit weakens  
2           the value of the United States dollar, intensifies infla-  
3           tionary pressures in the domestic economy, and height-  
4           ens instability in the world economy.

5           “(2) Poor export performance is an important  
6           factor contributing to a United States trade deficit.

7           “(3) It is important for the national interest of the  
8           United States that both the private sector and the Fed-  
9           eral Government place a high priority on exports,  
10          which would strengthen the Nation's economy.

11          “(4) Because of the increased technological capa-  
12          bilities of other countries friendly to the United States,  
13          United States export controls can no longer significant-  
14          ly retard the military capabilities of countries which  
15          threaten the national security of the United States,  
16          unless such export controls are imposed in cooperation  
17          with such friendly countries.

18          “(5) The method by which certain exports are  
19          regulated by the United States Government has cre-  
20          ated uncertainties in the business community which are  
21          detrimental to exports, domestic employment, and the  
22          trade balance of the United States.

23          “(6) Some exports, if not restricted, could be det-  
24          rimental to the military security or foreign policy of the  
25          United States, or could exacerbate shortages and infla-

3

1        tionary pressures in the domestic economy, but the un-  
2        warranted restriction of exports from the United States  
3        has a serious adverse effect on the domestic economy  
4        and the national interest.”.

## POLICY

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6        SEC. 3. Section 3 of the Export Administration Act of  
7        1969 (22 U.S.C. 2403) is amended to read as follows:

## “POLICY

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9        “SEC. 3. It is the policy of the United States—

10        “(1) to use export controls to further the national  
11        security of the United States;

12        “(2) to encourage trade with all countries with  
13        which the United States has diplomatic or trading rela-  
14        tions in order to strengthen the domestic economy and  
15        serve the national interest;

16        “(3) to restrict exports only in exceptional circum-  
17        stances, after full consideration of the economic impact  
18        of such restrictions, to the extent necessary—

19        “(A) to delay significantly the acquisition by  
20        any other nation of any technology or product  
21        which would contribute significantly to the mili-  
22        tary capabilities of such nation in a manner detri-  
23        mental to the military security of the United  
24        States;

1           “(B) to further significantly the foreign policy  
2           of the United States and to fulfill its international  
3           responsibilities; or

4           “(C) to protect the domestic economy from  
5           the excessive drain of scarce materials and reduce  
6           the inflationary impact of foreign demand for  
7           these materials;

8           “(4) to formulate, reformulate, and apply any nec-  
9           essary controls in cooperation with other nations to the  
10          maximum extent possible;

11          “(5)(A) to oppose restrictive trade practices or  
12          boycotts fostered or imposed by foreign countries  
13          against other countries friendly to the United States or  
14          against any United States person, and (B) to encourage  
15          and, in specified cases, to require United States per-  
16          sons engaged in the export of any technology or prod-  
17          uct to refuse to take actions, including furnishing infor-  
18          mation or entering into or implementing agreements,  
19          which have the effect of furthering or supporting re-  
20          strictive trade practices or boycotts fostered or imposed  
21          by any foreign country against a country friendly to  
22          the United States or against any United States person;

23          “(6) to impose export controls on any technology  
24          or product after consultation with, and review by, rep-

1        representatives of appropriate United States Government  
2        agencies and qualified experts from private industry;

3            “(7) to use export controls to encourage other  
4        countries to take immediate steps to prevent the use of  
5        their territory or resources to aid, encourage, or give  
6        sanctuary to those persons involved in directing, sup-  
7        porting, or participating in acts of international terror-  
8        ism; and

9            “(8) to permit any United States person to export  
10       any technology or product, unless such export is con-  
11       trolled under the provisions of this Act or any other  
12       Act.”.

13            EXPORT LICENSES; TYPES OF CONTROLS

14        SEC. 4. (a) The Export Administration Act of 1969 is  
15        amended—

16            (1) by redesignating section 4 as section 7;

17            (2) by striking out sections 5 and 9;

18            (3) by redesignating sections 6, 7, 8, 10, 11, 12,  
19        13, 14, and 15 as sections 11, 12, 13, 15, 17, 18, 19,  
20        20, and 21, respectively; and

21            (4) by redesignating sections 4A and 4B as sec-  
22        tions 8 and 9, respectively.

23        (b) The Export Administration Act of 1969 is amended  
24        by adding after section 3 the following new sections:

1       “EXPORT LICENSES; COMMODITY CONTROL LIST;

2               LIMITATION ON CONTROLLING EXPORTS

3       “SEC. 4. (a) TYPES OF EXPORT LICENSES.—The Sec-  
4   retary of Commerce may, in accordance with the provisions  
5   of this Act, issue any of the following export licenses:

6               “(1) A validated license, which shall be a docu-  
7   ment issued pursuant to an application by an exporter  
8   authorizing the export of a specific technology or prod-  
9   uct, or both, to a specific consignee under specific con-  
10   ditions, which license may be issued to cover a specific  
11   transaction or, under procedures established by the  
12   Secretary, a group of transactions.

13              “(2) A distribution license, which shall be a docu-  
14   ment issued pursuant to an application by the exporter  
15   authorizing the export, without specific application by  
16   the exporter for each such export, of a category of  
17   technologies or products to consignees specified in the  
18   license, under specific conditions. Any such license  
19   shall include a requirement that the exporter report to  
20   the Secretary, under procedures established by the  
21   Secretary, any export made under the license.

22              “(3) A general license, which shall be an authori-  
23   zation to export, without specific application by the ex-  
24   porter, and without any restriction as to consignee, a  
25   category of technologies or products, subject to such

1 exceptions as may be set forth in the license. No  
2 person shall be required under a general license to  
3 report to the Secretary, or to any other official with  
4 responsibilities under this Act, any export made under  
5 the license.

6 “(b) COMMODITY CONTROL LIST.—The Secretary shall  
7 establish and maintain a list (hereinafter in this Act referred  
8 to as the ‘commodity control list’) consisting of any technol-  
9 ogy or product subject to export control under this Act.

10 “(c) No authority or permission to export may be re-  
11 quired under this Act, or under any rules or regulations  
12 issued under this Act, except to carry out the policies set  
13 forth in section 3 of this Act.

14 “MILITARY SECURITY CONTROLS

15 “SEC. 5. (a) AUTHORITY.—(1) In order to carry out the  
16 policy set forth in section 3(3)(A) of this Act, the President  
17 may, in accordance with the provisions of this section, pro-  
18 hibit or curtail the export of any technology or product. The  
19 authority contained in this subsection shall be exercised by  
20 the Secretary, in consultation with the Secretary of Defense,  
21 and shall be implemented by means of export licenses de-  
22 scribed in section 4(a) of this Act.

23 “(2)(A) Whenever the Secretary imposes any export  
24 control under this subsection, the Secretary shall publish in  
25 the Federal Register a notice of the imposition of such con-

1 trol, and shall specify in such notice that such control is im-  
2 posed under the authority contained in this subsection.

3       “(B) Whenever the Secretary denies any export license  
4 under this subsection, the Secretary shall specify in the  
5 notice to the applicant of the denial of such license that the  
6 license was denied under the authority contained in this sub-  
7 section.

8       “(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In  
9 administering export controls under this section, United  
10 States policy toward individual countries shall not be deter-  
11 mined exclusively on the basis of a country's Communist or  
12 non-Communist status, but shall take into account such fac-  
13 tors as the country's present and potential relationship to the  
14 United States, its present and potential relationship to coun-  
15 tries friendly or hostile to the United States, its ability and  
16 willingness to control retransfers of United States exports in  
17 accordance with United States policy, and such other factors  
18 as the President may deem appropriate. The President shall  
19 periodically review United States policy toward individual  
20 countries to determine whether such policy is appropriate in  
21 light of factors specified in the preceding sentence. The re-  
22 sults of such review, together with the justification for United  
23 States policy in light of such factors, shall be reported to the  
24 Congress in each annual report of the Secretary required by  
25 section 15 of this Act.



1       “(c) ITEMS SUBJECT TO CONTROLS.—(1) The Secre-  
2 tary may impose export controls under this section only on a  
3 technology or product described in paragraph (2) with respect  
4 to which—

5           “(A) the United States possesses capabilities sig-  
6 nificantly greater than nations which threaten or may  
7 threaten the military security of the United States; and

8           “(B) nations other than those described in subpar-  
9 agraph (A) do not possess capabilities comparable to  
10 those possessed by the United States or have agreed to  
11 impose export controls on such technology or product  
12 comparable to those imposed by the United States.

13       “(2) A technology or product referred to in paragraph  
14 (1) is as follows:

15           “(A) Any technology which is critical to the mili-  
16 tary capabilities of any nation which threatens or may  
17 threaten the military security of the United States.

18           “(B) Any product the exportation of which would  
19 transfer a technology described in subparagraph (A) to  
20 a nation described in such subparagraph.

21       “(d) CONTROL LIST.—(1) The Secretary shall establish  
22 and maintain, as part of the commodity control list, a list of  
23 every technology and product which is subject to export con-  
24 trols under this section. Each such technology or product

1 shall be clearly identified as such, subject to controls under  
2 this section.

3       “(2) The Secretary shall consult with the Secretary of  
4 Defense in establishing and maintaining the list described in  
5 paragraph (1). If the two Secretaries are unable to agree on  
6 such list, the matter shall be referred to the President for  
7 resolution.

8       “(3) The Secretary shall issue regulations providing for  
9 periodic revision of the list established pursuant to this sub-  
10 section for the purpose of eliminating any technology or prod-  
11 uct from the list which no longer meets the criteria set forth  
12 in paragraphs (1) and (2) of subsection (c).

13       “(e) VALIDATED LICENSES.—(1) The Secretary may  
14 require a validated license under this section for the export of  
15 a technology or product only if—

16               “(A) the export of such technology or product is  
17 restricted pursuant to a multilateral agreement, formal  
18 or informal, to which the United States is a party and,  
19 under the terms of such multilateral agreement, such  
20 export requires the specific approval of the parties to  
21 such multilateral agreement; or

22               “(B) with respect to such technology or product  
23 other nations do not possess capabilities comparable to  
24 those possessed by the United States.

1       “(2)(A) The Secretary, in consultation with appropriate  
2 Government agencies and with appropriate technical advi-  
3 sory committees established pursuant to subsection (h), shall  
4 review, on a continuing basis, the availability from sources  
5 outside the United States of any technology or product the  
6 export of which requires a validated license under this sec-  
7 tion. In any case in which the Secretary determines, in ac-  
8 cordance with procedures and criteria which the Secretary  
9 shall by regulation establish, that any such technology or  
10 product is or will imminently become available in fact from  
11 sources outside the United States in sufficient quantity and of  
12 sufficient quality so that the requirement of a validated li-  
13 cense for the export of such technology or product is or  
14 would be ineffective in achieving the purpose set forth in sub-  
15 section (a), the Secretary may not, after the determination is  
16 made, require a validated license for the export of such  
17 technology or product, during the period of such foreign  
18 availability.

19       “(B) The Secretary shall approve any application for a  
20 validated license which is required under this section for the  
21 export of any technology or product and which meets all  
22 other requirements for such an application, if the Secretary  
23 determines that such technology or product will, if such li-  
24 cense is denied, be available in fact from sources outside the  
25 United States in sufficient quantity and of sufficient quality so

1 that such denial would be ineffective in achieving the purpose  
2 set forth in subsection (a). In any case in which the Secretary  
3 makes a determination of foreign availability under this sub-  
4 paragraph with respect to a technology or product, the Sec-  
5 retary shall determine whether a determination under sub-  
6 paragraph (A) with respect to such technology or product is  
7 warranted.

8 “(f) DISTRIBUTION LICENSES.—The Secretary may re-  
9 quire a distribution license under this section for the export of  
10 a technology or product only if—

11 “(1) the export of such technology or product is  
12 restricted pursuant to a multilateral agreement, formal  
13 or informal, to which the United States is a party but  
14 such export does not require the specific approval of  
15 the parties to such multilateral agreement; or

16 “(2) with respect to such technology or product  
17 other nations do not possess capabilities comparable to  
18 those possessed by the United States.

19 “(g) INDEXING.—In order to ensure that requirements  
20 for validated licenses and distribution licenses are periodically  
21 removed as any technology or product subject to such re-  
22 quirements become obsolete with respect to the military se-  
23 curity of the United States, the Secretary shall, within ninety  
24 days after the effective date of this subsection, issue regula-  
25 tions providing for the establishment of a system of automatic

1 annual increases in the performance levels of any product or  
2 technology subject to any such licensing requirement. Any  
3 such technology or product which no longer meets the per-  
4 formance levels established by the latest such increase shall  
5 be removed from the list established pursuant to subsection  
6 (d), unless, under such exceptions and under such procedures  
7 as the Secretary shall prescribe, any other Government  
8 agency objects to such removal and the Secretary deter-  
9 mines, on the basis of such objection, that the technology or  
10 product shall not be removed from the list.

11       “(h) TECHNICAL ADVISORY COMMITTEES.—(1) Upon  
12 written request by representatives of a substantial segment of  
13 any industry which produces any technology or product  
14 which is subject to export controls under subsection (a) or  
15 which is being considered for such controls because of its  
16 significance to the military security of the United States, the  
17 Secretary shall appoint a technical advisory committee for  
18 any such technology or product which the Secretary deter-  
19 mines is difficult to evaluate because of questions concerning  
20 technical matters, worldwide availability, and actual utiliza-  
21 tion of production and technology, or licensing procedures.  
22 Each such committee shall consist of representatives of  
23 United States industry and Government, including the De-  
24 partments of Commerce, Defense, and State, and, in the dis-  
25 cretion of the Secretary, other Government departments and

1 agencies. No person serving on any such committee who is  
2 representative of industry shall serve on such committee for  
3 more than four consecutive years.

4       “(2) Technical advisory committees established under  
5 paragraph (1) shall advise and assist the Secretary and any  
6 other department, agency, or official of the Government of  
7 the United States to which the President delegates authority  
8 under this Act with respect to actions designed to carry out  
9 the policy set forth in section 3(3)(A) of this Act. Such com-  
10 mittees, where they have expertise in such matters, shall be  
11 consulted with respect to questions involving (A) technical  
12 matters, (B) worldwide availability and actual utilization of  
13 production technology, (C) licensing procedures which affect  
14 the level of export controls applicable to any technology or  
15 product, and (D) exports subject to multilateral controls in  
16 which the United States participates, including proposed re-  
17 visions of any such multilateral controls. Nothing in this sub-  
18 section shall prevent the Secretary from consulting, at any  
19 time, with any person representing industry or the general  
20 public regardless of whether such person is a member of a  
21 technical advisory committee. Members of the public shall be  
22 given a reasonable opportunity, pursuant to regulations pre-  
23 scribed by the Secretary, to present evidence to such  
24 committees.

1       “(3) To facilitate the work of the technical advisory  
2 committees, the Secretary, in conjunction with other depart-  
3 ments and agencies participating in the administration of this  
4 Act, shall disclose to each such committee adequate informa-  
5 tion, consistent with national security, pertaining to the rea-  
6 sons for the export controls which are in effect or contem-  
7 plated for the technology or product with respect to which  
8 that committee furnishes advice.

9       “(4) Whenever a technical advisory committee certifies  
10 to the Secretary that a technology or product with respect to  
11 which such committee was appointed has become or will im-  
12 minently become available in fact from sources outside the  
13 United States in sufficient quantity and of sufficient quality so  
14 that requiring a validated license for the export of such tech-  
15 nology or product would be ineffective in achieving the pur-  
16 pose set forth in subsection (a), and provides adequate docu-  
17 mentation for such certification, in accordance with the pro-  
18 cedures established pursuant to subsection (e)(2)(A) of this  
19 section, the Secretary shall take steps to verify such avail-  
20 ability, and upon such verification shall remove the require-  
21 ment of a validated license for the export of the technology or  
22 product.

23       “(i) TREATY ON MULTILATERAL CONTROLS.—The  
24 President shall enter into negotiations with countries friendly  
25 to the United States for the purpose of concluding a treaty or

1 treaties providing for cooperation in controlling exports for  
2 the purposes for which export controls are imposed under  
3 subsection (a) of this section, with a view to the military se-  
4 curity of both the United States and such friendly countries.  
5 Such treaty or treaties shall provide that any agreement be-  
6 tween or among the parties to such treaty which is entered  
7 into pursuant to the treaty shall be made available to the  
8 public. United States participation in the group known as the  
9 Coordinating Committee of the Consultative Group shall ter-  
10minate after the effective date of this section  
11 unless the President has (1) submitted such a treaty to the  
12 Senate for ratification, or (2) submitted to the Congress a  
13 report certifying that he has been unable to negotiate such a  
14 treaty and stating the reasons therefor. The provisions of sec-  
15 tion 10(i) shall apply to United States participation in such  
16 Committee until such time as such provisions are superseded  
17 by a treaty concluded pursuant to this paragraph.

18 "FOREIGN POLICY CONTROLS

19 "SEC. 6. (a) AUTHORITY.—(1) In order to effectuate  
20 the policy set forth in paragraphs (3)(B) and (7) of section 3  
21 of this Act, the President may prohibit or curtail the exporta-  
22 tion of any technology or product to the extent necessary to  
23 further significantly the foreign policy of the United States  
24 and fulfill its international responsibilities. The authority  
25 granted by this subsection shall be exercised by the Secre-



1 tary, in consultation with the Secretary of State, and shall be  
2 implemented by means of export licenses issued by the Secre-  
3 tary.

4 “(2)(A) Whenever the Secretary imposes any export  
5 control under this subsection, the Secretary shall publish in  
6 the Federal Register a notice of the imposition of such con-  
7 trol, and shall specify in such notice that such control is im-  
8 posed under the authority contained in this subsection.

9 “(B) Whenever the Secretary denies any export license  
10 under this subsection, the Secretary shall specify in the  
11 notice to the applicant of the denial of such license that the  
12 license was denied under the authority contained in this sub-  
13 section and the reasons for such denial, with reference to the  
14 criteria set forth in subsection (b).

15 “(b) CRITERIA.—In determining whether to apply  
16 export controls under this section, or whether to approve or  
17 deny an export license under this section, the President,  
18 acting through the Secretary and the Secretary of State,  
19 shall take fully into account—

20 “(1) the likely effectiveness of the proposed con-  
21 trols in achieving their purpose, including the availabil-  
22 ity from other countries of any technology or product  
23 comparable to any technology or product proposed for  
24 export controls under this section;

1           “(2) the compatibility of the proposed controls  
2           with the foreign policy objectives of the United States  
3           and with overall United States policy toward the coun-  
4           try which is the proposed target of the controls;

5           “(3) the likely effects of the proposed controls on  
6           the export performance of the United States, on the  
7           competitive position of the United States in the inter-  
8           national economy, and on individual United States  
9           companies and their employees and communities, in-  
10          cluding the effects of the controls on existing contracts;  
11          and

12          “(4) the ability of the United States Government  
13          to enforce the proposed controls effectively.

14          “(c) CONSULTATION WITH INDUSTRY.—The Secre-  
15          tary, before imposing export controls under this section, shall  
16          consult with such affected United States industries as the  
17          Secretary considers appropriate.

18          “(d) PRIOR NEGOTIATION.—The President shall at-  
19          tempt to secure the objectives of any proposed export control  
20          under this section through negotiation or other diplomatic  
21          means before resorting to the imposition of such control.

22          “(e) NOTIFICATION TO CONGRESS.—The President  
23          shall consult with the Congress before imposing any export  
24          control under this section. Whenever the President imposes  
25          any export control with respect to any country under this

1 section, he shall immediately notify the Congress of the im-  
2 position of such export control, and shall submit with such  
3 notification a report specifying—

4 “(1) the reasons for the control, the purposes the  
5 control is designed to achieve, and the conditions under  
6 which the control will be removed;

7 “(2) those considerations of the criteria set forth  
8 in subsection (b) which led him to determine that on  
9 balance such export control would further the foreign  
10 policy interests of the United States;

11 “(3) the nature and results of consultations with  
12 industry undertaken pursuant to subsection (c); and

13 “(4) the nature and results of any negotiations un-  
14 dertaken under subsection (d).

15 To the extent necessary to further the effectiveness of such  
16 export control, portions of such report may be submitted on a  
17 classified basis, as provided in section 14. If the Congress,  
18 within sixty days after the receipt of such notification, adopts  
19 a concurrent resolution disapproving such export control,  
20 then such export control shall cease to be effective with the  
21 adoption of such resolution. In the computation of such sixty-  
22 day period, there shall be excluded the days on which either  
23 House of Congress is not in session because of an adjourn-  
24 ment of more than three days to a day certain or because of  
25 an adjournment of the Congress sine die. The procedures set

1 forth in section 130 of the Atomic Energy Act of 1954 shall  
2 apply to any concurrent resolution referred to in this subsec-  
3 tion, except that any such resolution shall be reported by the  
4 appropriate committees of both Houses of Congress not later  
5 than forty-five days after the receipt of the notification sub-  
6 mitted pursuant to this subsection.

7       “(f) TREATY COMMITMENTS.—The Secretary need not  
8 comply with the requirements of this section with respect to  
9 any export control which the United States is obligated to  
10 impose on account of a decision or other action of an interna-  
11 tional organization of which the United States is a member  
12 by treaty.

13       “(g) EXCLUSION FOR FOOD AND MEDICINE.—This  
14 section does not authorize export controls on food, medicine,  
15 or medical supplies. It is the intent of the Congress that the  
16 President not impose export controls under this section on  
17 any technology or product if he determines that the principal  
18 effect of the export of such technology or product would be to  
19 help meet basic human needs.

20       “(h) TRADE EMBARGOES.—This section does not au-  
21 thorize the imposition by the United States of a total trade  
22 embargo on any country.

23       “(i) FOREIGN AVAILABILITY.—In applying export con-  
24 trols under this section, the President shall take all feasible  
25 steps to initiate and conclude negotiations with appropriate

1 foreign governments for the purpose of securing the coopera-  
2 tion of such foreign governments in controlling the export of  
3 any technology or product comparable to any technology or  
4 product controlled for export under this section.

5       “(j) CONTROL LIST.—The Secretary shall establish and  
6 maintain, as part of the commodity control list, a list of any  
7 technology or product which is subject to export controls  
8 under this section and the countries to which such controls  
9 apply. Such technology or product shall be clearly identified  
10 as subject to controls under this section. The Secretary shall  
11 consult with the Secretary of State in establishing and main-  
12 taining such list. If the Secretary and the Secretary of State  
13 are unable to agree on such list, the matter shall be referred  
14 to the President for resolution. The Secretary shall issue reg-  
15 ulations providing for periodic revision of such list for the  
16 purpose of eliminating export controls which are no longer  
17 necessary to fulfill the purpose set forth in subsection (a) of  
18 this section.”.

19                   LICENSE PROCESSING PROCEDURES

20       SEC. 5. The Export Administration Act of 1969 is  
21 amended by inserting after section 9, as redesignated by sec-  
22 tion 4(a) of this Act, the following new section:

1       "PROCEDURES FOR PROCESSING VALIDATED AND  
2               DISTRIBUTION LICENSE APPLICATIONS

3       "SEC. 10. (a)(1) GENERAL RESPONSIBILITY OF THE  
4 SECRETARY; DESIGNATED OFFICIAL.—All export license  
5 applications required under this Act shall be submitted by the  
6 applicant to the Secretary. All determinations with respect to  
7 any such application shall be made by the Secretary, subject  
8 to the procedures provided in this section for objections by  
9 other agencies. The Secretary may not delegate the authority  
10 to deny any such application to any official holding a rank  
11 lower than Deputy Assistant Secretary.

12       "(2) For purposes of this section, the term 'designated  
13 official' means an official designated by the Secretary to  
14 carry out functions under this Act with respect to the admin-  
15 istration of export licenses.

16       "(b) APPLICATIONS TO BE REVIEWED BY OTHER  
17 AGENCIES.—(1) It is the intent of Congress that a determi-  
18 nation with respect to any export license application be made  
19 to the maximum extent possible by the Secretary without  
20 referral of such application to any other Government agency.

21       "(2) The head of any Government agency concerned  
22 with export controls may, within ninety days after the effec-  
23 tive date of this section, and periodically thereafter, in con-  
24 sultation with the Secretary, determine the specific types and  
25 categories of license applications to be reviewed by such

1 agency before the Secretary approves or disapproves any  
2 such application. The Secretary shall, in accordance with the  
3 provisions of this section, submit to the agency involved any  
4 license application of any such type or category.

5       “(c) INITIAL SCREENING.—Within ten days after the  
6 date on which any export license application is received, the  
7 designated official shall—

8           “(1) send to the applicant an acknowledgement of  
9 the receipt of the application and the date of the  
10 receipt;

11          “(2) submit to the applicant a written description  
12 of the procedures required by this section, the responsi-  
13 bilities of the Secretary and of other agencies with re-  
14 spect to the application, and the rights of the applicant;

15          “(3) return the application without action if the  
16 application is improperly completed or if additional in-  
17 formation is required, in which case if such application  
18 is resubmitted, it shall be treated as a new application  
19 for the purpose of calculating the time periods pre-  
20 scribed in this section; and

21          “(4) determine whether it is necessary to submit  
22 the application to any other agency and, if such sub-  
23 mission is determined to be necessary, inform the ap-  
24 plicant of the agency or agencies to which the applica-  
25 tion will be referred.

1       “(d) ACTION BY THE DESIGNATED OFFICIAL.—Within  
2 thirty days after the date on which an export license applica-  
3 tion is received, the designated official shall—

4               “(1) approve or disapprove the application and  
5 formally issue or deny the license, as the case may be;  
6 or

7               “(2)(A) submit the application concurrently to any  
8 other agencies pursuant to subsection (b)(2); and

9               “(B) if the applicant so requests, provide the ap-  
10 plicant with an opportunity to review for accuracy any  
11 documentation submitted to such other agency with re-  
12 spect to such application.

13       “(e) ACTION BY OTHER AGENCIES.—Any agency to  
14 which an application is submitted pursuant to subsection  
15 (d)(2)(A) shall submit to the designated official, within thirty  
16 days after the end of the thirty-day period referred to in sub-  
17 section (d), any recommendation with respect to such applica-  
18 tion. Any such agency which does not so submit its recom-  
19 mendations within the time period prescribed in the preced-  
20 ing sentence shall be deemed by the designated official to  
21 have no objection to the approval of such application.

22       “(f) DETERMINATION BY THE DESIGNATED OFFI-  
23 CIAL.—(1) The designated official shall take into account any  
24 recommendation of an agency with respect to an application,  
25 submitted to the designated official pursuant to subsection (e),



1 and, within twenty days after the end of the period specified  
2 in subsection (e) for submission of such agency recommenda-  
3 tions, shall—

4 “(A) approve or disapprove the application, and  
5 inform such agency of such approval or disapproval; or

6 “(B) if unable to reach a decision with respect to  
7 the application, refer the application to the Secretary  
8 and notify such agency and the applicant of such  
9 referral.

10 “(2) The designated official shall formally issue or deny  
11 the license, as the case may be, not more than ten days after  
12 such official makes a determination under paragraph (1)(A),  
13 unless any agency which submitted a recommendation to the  
14 designated official pursuant to subsection (e) with respect to  
15 the license application, notifies such official, within such ten-  
16 day period, that it objects to the determination of the desig-  
17 nated official.

18 “(3) The designated official shall fully inform the appli-  
19 cant—

20 “(A) at the time of a denial of the application, the  
21 specific reasons for such denial; or

22 “(B) in the case of referral to the Secretary under  
23 paragraph (1)(B) or an objection by an agency under  
24 paragraph (2), the specific questions raised, and any  
25 negative considerations or recommendations made by

1 an agency, and shall accord the applicant an opportunity,  
2 nity, before the final determination with respect to the  
3 application is made, to respond in writing to such ques-  
4 tions, considerations, or recommendations.

5 “(g) ACTION BY THE SECRETARY.—(1)(A) In the case  
6 of an objection of an agency of which the designated official  
7 is notified under subsection (f)(2), the designated official shall  
8 refer the application to the Secretary. The Secretary shall  
9 consult with the head of such agency, and, within twenty  
10 days after such notification, shall approve or disapprove the  
11 license application and immediately inform such agency head  
12 of such approval or disapproval.

13 “(B) In the case of a referral to the Secretary under  
14 subsection (f)(1)(B), the Secretary shall, within twenty days  
15 after such notification is transmitted, approve or disapprove  
16 the application and immediately inform any agency which  
17 submitted recommendations with respect to the application,  
18 of such approval or disapproval.

19 “(2) The Secretary shall formally issue or deny the li-  
20 cense, as the case may be, within ten days after approving or  
21 disapproving the application under paragraph (1), unless the  
22 head of the agency referred to in paragraph (1)(A), or the  
23 head of an agency described in paragraph (1)(B), as the case  
24 may be, notifies the Secretary of his objection to the approval  
25 or disapproval.

1       “(3) The Secretary shall immediately and fully inform  
2 the applicant, in accordance with subsection (f)(3), of any  
3 action taken under paragraphs (1) and (2) of this subsection.

4       “(4) The Secretary may not delegate the authority to  
5 carry out the actions required by this subsection to any offi-  
6 cial holding a rank lower than Deputy Assistant Secretary.

7       “(h) ACTION BY THE PRESIDENT.—In the case of noti-  
8 fication by an agency head under subsection (g)(2) of an ob-  
9 jection to the Secretary’s decision with respect to an applica-  
10 tion, the Secretary shall immediately refer the application to  
11 the President. Within thirty days after such notification, the  
12 President shall approve or disapprove the application and the  
13 Secretary shall immediately issue or deny the license, in ac-  
14 cordance with the President’s decision. In any case in which  
15 the President does not approve or disapprove the application  
16 within such thirty-day period, the decision of the Secretary  
17 shall be final and the Secretary shall immediately issue or  
18 deny the license in accordance with the Secretary’s decision.

19       “(i) MULTILATERAL REVIEW.—(1) In any case in  
20 which an application, which has been approved by the United  
21 States Government, is required to be submitted to a multilat-  
22 eral review process, pursuant to a multilateral agreement,  
23 formal or informal, to which the United States is a party, the  
24 Secretary shall notify the applicant of the approval (and the  
25 date of such approval) of the application by the United States

1 Government subject to such multilateral review. If such mul-  
2 tilateral review has not resulted in a determination with re-  
3 spect to such application within thirty days after such date,  
4 the Secretary's approval of the application shall be final and  
5 the license shall be issued.

6       “(2) In any case in which the approval of the United  
7 States Government is sought by a foreign government for the  
8 export of a commodity, pursuant to a multilateral agreement,  
9 formal or informal, to which the United States is a party, the  
10 Secretary of State, after consulting with other appropriate  
11 United States Government agencies, shall, within thirty days  
12 after the date on which the request for such approval is  
13 made, make a determination with respect to such request for  
14 approval. Any such other agency which does not submit a  
15 recommendation to the Secretary of State before the end of  
16 such thirty-day period shall be deemed by the Secretary of  
17 State to have no objection to the request for United States  
18 Government approval. The Secretary of State may not dele-  
19 gate the authority to disapprove a request for United States  
20 Government approval under this paragraph to any official of  
21 the Department of State holding a rank lower than Deputy  
22 Assistant Secretary.

23       “(j) COURT ACTION.—In any case in which any action  
24 prescribed in this section is not taken on a license application  
25 within the time periods established by this section, the appli-

1 cant may bring an action in an appropriate United States  
2 district court for a restraining order, a temporary or perma-  
3 nent injunction, or other appropriate relief, to require compli-  
4 ance with the requirements of this section. The United States  
5 district courts shall have jurisdiction to provide such relief as  
6 appropriate.

7 “(k) The Secretary and any agency to which any appli-  
8 cation is referred under this section shall keep accurate rec-  
9 ords with respect to all applications considered by the Secre-  
10 tary or by any such agency.”.

11 CONFIDENTIALITY PROVISIONS

12 SEC. 6. The Export Administration Act of 1969 is  
13 amended by inserting after section 13, as redesignated by  
14 section 4(a) of this Act, the following new section:

15 “CONFIDENTIALITY

16 “SEC. 14. (a) PROHIBITION ON PUBLIC DISCLO-  
17 SURE.—Except as provided by the third sentence of section  
18 8(b)(2) and by section 11(c)(2)(C) of this Act, no department,  
19 agency, or official exercising any functions under this Act  
20 shall publish or publicly disclose information obtained under  
21 this Act or the Export Control Act of 1949, which the Secre-  
22 tary deems confidential.

23 “(b) INFORMATION TO CONGRESS.—Nothing in this  
24 Act shall be construed as authorizing the withholding of in-  
25 formation from Congress, and any department, agency, or

1 official exercising any functions under this Act shall, upon  
2 the request of any committee or subcommittee of Congress of  
3 appropriate jurisdiction, make available, without restriction,  
4 to such committee or subcommittee any information obtained  
5 (before, on, or after the effective date of this Act) under the  
6 Export Control Act of 1949 or under this Act, including any  
7 report or license application required under such Acts. No  
8 such information which is deemed confidential on the date of  
9 the request of such committee or subcommittee shall be pub-  
10 licly disclosed by such committee or subcommittee unless the  
11 full committee votes to disclose publicly such information.”.

12 REPORT TO CONGRESS

13 SEC. 7. Section 15 of the Export Administration Act of  
14 1969, as redesignated by section 4(a) of this Act, is amended  
15 to read as follows:

16 “ANNUAL REPORT

17 “SEC. 15. Not later than December 31 of each year, the  
18 Secretary shall submit to the Congress a report on the ad-  
19 ministration of this Act. All agencies shall cooperate fully  
20 with the Secretary in providing information for such report.  
21 Such report shall include detailed information with respect  
22 to—

23 “(1) the implementation of the policies of section  
24 3;

1           “(2) general licensing activities under sections 5,  
2           6, and 7;

3           “(3) changes in categories of items under export  
4           control referred to in subsections (e) and (f) of section  
5           5;

6           “(4) the operation of the indexing system under  
7           section 5(g);

8           “(5) determinations of foreign availability made  
9           under section 5(e)(2), the criteria used to make such  
10          determinations, and the removal of any export controls  
11          under such section;

12          “(6) consultations with the technical advisory  
13          committees established pursuant to section 5(h), the  
14          use made of the advice rendered by such committees,  
15          and the contributions of such committees toward imple-  
16          menting the policies set forth in this Act;

17          “(7) changes in policies toward individual coun-  
18          tries under section 5(b);

19          “(8) the effectiveness of export controls imposed  
20          under section 6 in furthering the foreign policy of the  
21          United States;

22          “(9) the implementation of section 8;

23          “(10) export controls and monitoring under sec-  
24          tion 7;

1           “(11) organization and procedural changes under-  
2       taken to increase the efficiency of the export licensing  
3       process and to fulfill the requirements of section 10, in-  
4       cluding an analysis of the time required to process li-  
5       cense applications; and

6           “(12) violations under section 11 and enforcement  
7       activities under section 12.”.

8                       RULES AND REGULATIONS

9       SEC. 8. The Export Administration Act of 1969 is  
10   amended by inserting after section 15, as redesignated by  
11   section 4(a) of this Act, the following new section:

12                      “REGULATORY AUTHORITY

13       “SEC. 16. The President and the Secretary may issue  
14   such rules and regulations as are necessary to carry out the  
15   provisions of this Act. Any such rules or regulations issued to  
16   carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may  
17   apply to the financing, transporting, or other servicing of  
18   exports.”.

19                      DEFINITIONS

20       SEC. 9. Section 17 of the Export Administration Act of  
21   1969, as redesignated by section 4(a) of this Act, is amended  
22   to read as follows:

23                      “DEFINITIONS

24       “SEC. 17. As used in this Act—



1           “(1) ‘product’ means any article, material, or  
2           supply;

3           “(2) ‘person’ includes the singular and the plural  
4           and means any individual, partnership, corporation, or  
5           other form of association, including any government or  
6           agency thereof;

7           “(3) ‘Secretary’ means the Secretary of Com-  
8           merce;

9           “(4) ‘technology’ means the knowledge required  
10          to design and manufacture products and services and  
11          includes technical data and any other information; and

12          “(5) ‘United States person’ means any United  
13          States resident or national (other than an individual  
14          resident outside the United States and employed by  
15          other than a United States person), any domestic con-  
16          cern (including any permanent domestic establishment  
17          of any foreign concern) and any foreign subsidiary or  
18          affiliate (including any permanent foreign establish-  
19          ment) of any domestic concern which is controlled in  
20          fact by such domestic concern, as determined under  
21          regulations of the President.”.

22                   AUTHORIZATION OF APPROPRIATIONS

23          SEC. 10. Section 19 of the Export Administration Act  
24          of 1969, as redesignated by section 4(a) of this Act, is  
25          amended to read as follows:

1           “AUTHORIZATION OF APPROPRIATIONS

2           “SEC. 19. (a) REQUIREMENT OF AUTHORIZING LEGIS-  
3 LATION.—Notwithstanding any other provision of law, no  
4 appropriation shall be made under any law to the Depart-  
5 ment of Commerce for expenses to carry out the purposes of  
6 this Act unless previously and specifically authorized by law.

7           “(b) AUTHORIZATION.—There is hereby authorized to  
8 be appropriated to the Department of Commerce to carry out  
9 the purposes of this Act \$7,070,000 for the fiscal year 1980  
10 and \$7,777,000 for the fiscal year 1981 (and such additional  
11 amounts as may be necessary for increases in salary, pay,  
12 retirement, other employee benefits authorized by law, and  
13 other nondiscretionary costs).”.

14           TERMINATION DATE

15           SEC. 11. Section 21 of the Export Administration Act  
16 of 1969, as redesignated by section 4(a) of this Act, is  
17 amended to read as follows:

18           “TERMINATION DATE

19           “SEC. 21. The authority granted by this Act shall ter-  
20minate on September 30, 1983.”.

21           TECHNICAL AMENDMENTS

22           SEC. 12. (a) For purposes of this section, an amendment  
23 which is expressed in terms of an amendment to a section or  
24 other provision, shall be considered to be a section, as redes-

1   ignated by section 4(a) of this Act, or other provision of the  
2   Export Administration Act of 1969.

3       (b) Section 7 is amended—

4           (1) in the section heading by striking out “AU-  
5       THORITY” and inserting in lieu thereof “OTHER CON-  
6       TROLS”;

7           (2) in subsection (b)—

8               (A) in paragraph (1)—

9                   (i) by inserting “(3)(C)” immediately  
10           after “section 3” the first time it appears,

11                   (ii) by striking out “articles, materials,  
12           or supplies, including technical data on any  
13           other information” and inserting in lieu  
14           thereof “product”,

15                   (iii) by striking out “articles, materials,  
16           or supplies” and inserting in lieu thereof  
17           “product”, and

18                   (iv) by striking out “(2)(A)” and insert-  
19           ing in lieu thereof “(3)(C)”; and

20           (B) by striking out paragraph (2) and inserting in  
21       lieu thereof the following:

22       “(2) Upon imposing quantitative restrictions on exports  
23   of any product to carry out the policy stated in section  
24   3(3)(C) of this Act, the Secretary shall include in a notice  
25   published in the Federal Register with respect to such re-

1 strictions an invitation to all interested parties to submit  
2 written comments within fifteen days from the date of publi-  
3 cation on the impact of such restrictions and the method of  
4 licensing used to implement them.”;

5 (3) in subsection (c)—

6 (A) in paragraph (1)—

7 (i) by striking out “(2)(A)” and inserting  
8 in lieu thereof “(3)(C)”,

9 (ii) by striking out “of Commerce”, and

10 (iii) by striking out “the last two sen-  
11 tences of section 7(c)” and inserting in lieu  
12 thereof “section 14(b)”;

13 (B) by striking out “article, material, or  
14 supply” each place it appears and inserting in lieu  
15 thereof “product”; and

16 (C) by adding at the end thereof the follow-  
17 ing new paragraph:

18 “(3) The Secretary shall consult with the Secretary of  
19 Energy to determine whether monitoring under this subsec-  
20 tion is warranted with respect to exports of facilities, machin-  
21 ery, or equipment normally and principally used, or intended  
22 to be used, in the production, conversion, or transportation of  
23 fuels and energy (except nuclear energy), including but not  
24 limited to, drilling rigs, platforms, and equipment; petroleum  
25 refineries, natural gas processing, liquefaction, and gasifica-

1 tion plants; facilities for production of synthetic natural gas  
2 or synthetic crude oil; oil and gas pipelines, pumping stations,  
3 and associated equipment; and vessels for transporting oil,  
4 gas, coal, and other fuels.”;

5 (4) in subsection (f)—

6 (A) in paragraph (1) by striking out “clause  
7 (B) or (C) of paragraph (2)” and inserting in lieu  
8 thereof “subparagraph (A) or (B) of paragraph  
9 (3)”;

10 (B) in paragraph (2)—

11 (i) by striking out “of Commerce” each  
12 place it appears, and

13 (ii) by striking out “(2)(A)” and insert-  
14 ing in lieu thereof “(3)(C)”;

15 (C) in paragraph (3) by striking out “clause  
16 (A) or (B) of paragraph (2)” and inserting in lieu  
17 thereof “paragraph (3)(C)”;

18 (5) in subsection (i) by striking out “(2)(A)” and  
19 inserting in lieu thereof “(3)(C)”;

20 (6) in subsection (j)—

21 (A) by striking out “(2)(A)” and inserting in  
22 lieu thereof “(3)(C)”;

23 (B) by striking out “of Commerce” each  
24 place it appears,

1 (7) by striking out subsections (a), (d), (e), (g), (h),  
2 and (k); and

3 (8) by redesignating subsections (b), (c), (f), (i), (j),  
4 and (l) as subsections (a), (b), (c), (d), (e), and (f), re-  
5 spectively.

6 (c) Section 8 is amended—

7 (1) in paragraphs (1)(D) and (5) of subsection (a)  
8 by striking out “of Commerce”; and

9 (2) in subsection (b)—

10 (A) in paragraph (1) by striking out “4(b)”  
11 and inserting in lieu thereof “6(a)”; and

12 (B) in paragraph (2) by striking out “of Com-  
13 merce” each place it appears.

14 (d) Section 9 is amended—

15 (1) by striking out “of Commerce” each place it  
16 appears; and

17 (2) by striking out “commodity” each place it ap-  
18 pears and inserting in lieu thereof “product”.

19 (e) Subsection (c)(2) of section 11 is amended—

20 (1) in subparagraph (A) by striking out “articles,  
21 materials, supplies, or technical data or other informa-  
22 tion,” and inserting in lieu thereof “any technology or  
23 product”; and

24 (2) by striking out “4A” each place it appears  
25 and inserting in lieu thereof “8”.

1 (f) Section 12 is amended—

2 (1) in subsection (b) by striking out “the Compul-  
3 sory Testimony Act of February 11, 1893 (27 Stat.  
4 443; 49 U.S.C. 46)” and inserting in lieu thereof “sec-  
5 tion 6002 of title 18, United States Code”;

6 (2) in subsection (d)—

7 (A) by striking out “quarterly”; and

8 (B) by striking out “10” and inserting in lieu  
9 thereof “15”; and

10 (3) by striking out subsections (c) and (e) and by  
11 redesignating subsection (d) as subsection (c).

12 (g) Section 13 is amended by striking out “6” and in-  
13 serting in lieu thereof “11”.

14 (h) Section 18 is amended—

15 (1) in subsection (a) by striking out “(a)”; and

16 (2) by striking out subsection (b).

17 TECHNICAL AMENDMENTS TO OTHER ACTS

18 SEC. 13. (a) Section 38(e) of the Arms Export Control  
19 Act (22 U.S.C. 2778(e)) is amended by striking out “sections  
20 6(c), (d), (e), and (f) and 7(a) and (c) of the Export Adminis-  
21 tration Act of 1969” and inserting in lieu thereof “subsec-  
22 tions (c), (d), (e), and (f) of section 11 of the Export Adminis-  
23 tration Act of 1969, and by sections 12(a) and 14 of such  
24 Act”.

1 (b)(1) Section 103 of the Energy Policy and Conserva-  
2 tion Act (42 U.S.C. 6212) is amended in subsection (c) by  
3 striking out "serious" and all that follows through "3(2)(A)"  
4 and inserting in lieu thereof "inflationary impact of foreign  
5 demand for these materials' in section 3(3)(C) of such Act".

6 (2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3))  
7 is amended to read as follows:

8 "(3) section 14 of the Export Administration Act  
9 of 1969;"

10 (c) Section 993(c)(2)(D) of the Internal Revenue Code of  
11 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

12 (1) by striking out "4(b)" and inserting in lieu  
13 thereof "7(a)";

14 (2) by striking out "(50 U.S.C. App. 2403(b))";  
15 and

16 (3) by striking out "(2)(A)" and inserting in lieu  
17 thereof "(3)(C)".

18 SAVINGS PROVISIONS

19 SEC. 14. (a) All delegations, rules, regulations, orders,  
20 determinations, licenses, or other forms of administrative  
21 action which have been made, issued, conducted, or allowed  
22 to become effective under the Export Administration Act of  
23 1969 and which are in effect at the time this Act takes effect  
24 shall continue in effect according to their terms until modi-



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1 fied, superseded, set aside, or revoked under the amendments  
2 made by this Act.

3 (b) The amendments made by this Act shall not apply to  
4 any administrative proceedings commenced or any applica-  
5 tion for a license made, under the Export Administration Act  
6 of 1969, which is pending at the time this Act takes effect;

7 (c) This Act shall not affect any investigation, suit,  
8 action, or other judicial proceeding commenced under the  
9 Export Administration Act of 1969 which is pending at the  
10 time this Act takes effect; but such investigation, suit, action,  
11 or proceeding shall be continued as if this Act had not been  
12 enacted.

13 EFFECTIVE DATE

14 SEC. 15. This Act shall take effect on October 1, 1979.

○